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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,479	05/17/2001	Christian Brand	44912-20054.00	2988
25227	7590	01/18/2005	EXAMINER	
MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 300 MCLEAN, VA 22102			GANTT, ALAN T	
			ART UNIT	PAPER NUMBER
			2684	

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/858,479

Applicant(s)

BRAND ET AL.

Examiner

Alan T. Gantt

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 8/23/04 have been fully considered but they are not persuasive. Applicant primarily argues that the priority date of applicant's application is prior to the effecting filing date of the Koshizaka reference. Applicant argues that the certified priority and their associated translations were filed on 5/17/01. After researching the contents of the application, the certified documents were found in the file but not the English translation. Therefore this requirement has not been met and the previous rejection stands.

Priority

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marron et al., in view of Koshizaka et al.

Regarding claim 1, Marron discloses a passive keyless entry system that disengages the locking mechanism of an entrance to a restricted area, such as a motor vehicle door, through the use of a coded marker and having means for defining an interrogation zone. The system has a generating means having a frequency band that supplies the marker with a signal identity (page 2, lines 59 to page 3, line 2). Marron meets the limitation:

A method for detection of a response transmitter which communicates with a base station, comprising: communicating using two frequency ranges between the base station and the response transmitter, (page 4, lines 24-58 [Marron suggests one frequency range for the energizing of the interrogation coils for the sending of the interrogation signal and a second frequency range for activating and resonating of the marker])

Marron is not concerned with permeability related to the surrounding space to the frequency ranges.

Koshizaka discloses a high frequency communication apparatus that has a case containing a transmitter / receiver with a functional structure capable of confining radiation energy to prevent the radiation energy from interfering with the operation of the transmitter / receiver. Koshizaka is utilized because it teaches the concept of space being permeable to a first frequency range and impermeable to a second frequency range. Thus, Koshizaka meets the limitation:

the space being permeable to a first frequency range and impermeable

to a second frequency range (paragraph 0008).

Marron and Koshizaka are combinable because they share a common endeavor, namely devices that utilize different frequency bands for operating functionality. At the time of the applicant's invention it would have been obvious to modify Marron to utilize functional structure to mitigate interference between frequency ranges as done by Koshizaka to reduce system costs due to filtering requirements.

Regarding claim 6, Marron discloses a passive keyless entry system that disengages the locking mechanism of an entrance to a restricted area, such as a motor vehicle door, through the use of a coded marker and having means for defining an interrogation zone. The system has a generating means having a frequency band that supplies the marker with a signal identity (page 2, lines 59 to page 3, line 2). Marron meets the limitation:

A communications system, comprising: a base station with a first transmitter/receiver unit for communication signals and a transmitter unit for location interrogation signals; a response transmitter with a second transmitter/receiver unit for the communication signals and a receiver unit for location interrogation signals; (page 4, lines 24-58 [Marron suggests one frequency range for the energizing of the interrogation coils which is part of what would be considered the base station for the sending of the interrogation signal and a second frequency range for activating and resonating of the marker which is equivalent to the response transmitter])

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Marron is not concerned with permeability related to the surrounding space to the frequency ranges.

Koshizaka discloses a high frequency communication apparatus that has a case containing a transmitter / receiver with a functional structure capable of confining radiation energy to prevent the radiation energy from interfering with the operation of the transmitter / receiver. Koshizaka is utilized because it teaches the concept of space being permeable to a first frequency range and impermeable to a second frequency range. Thus, Koshizaka meets the limitation:

an interior space having walls impermeable to one frequency range, the communication signals being transmitted and received in a frequency range to which the walls are permeable and the location interrogation signals being transmitted in a frequency range to which the walls are impermeable. (paragraph 0008)

Marron and Koshizaka are combinable because they share a common endeavor, namely devices that utilize different frequency bands for operating functionality. At the time of the applicant's invention it would have been obvious to modify Marron to utilize functional structure to mitigate interference between frequency ranges as done by Koshizaka to reduce system costs due to filtering requirements.

Regarding claim 2, Marron meets the limitation - The method as claimed in claim 1, the communication from the response transmitter to the base station occurring in the first frequency

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range. (page 4, lines 24-58 [the communication between the marker and the base being one frequency range and the trigger for the marker being the second frequency range])

Regarding claim 3, Marron meets the limitation - The method as claimed in claim 1, the base station transmitting a communication signal in the first frequency range and a location interrogation signal in the second frequency range. (page 4, lines 24-58 [the communication between the marker and the base being one frequency range and the trigger for the marker being the second frequency range])

Regarding claim 4, Marron meets the limitation - The method as claimed in claim 1, the base station transmitting location interrogation signals selectively from one of inside and outside the space. (Marron suggests this, page 5, lines 22-32)

Regarding claim 5, Marron meets the limitation - The method as claimed in claim 3, the response transmitter being activated using the location interrogation signal. (page 4, lines 24-58 [the communication between the marker and the base being one frequency range and the trigger for the marker being the second frequency range])

Regarding claim 7, Marron meets the limitation - The communications system as claimed in claim 6, the base station having a transmitter antenna located outside of the interior space and

a transmitter antenna located inside of the interior space. (Marron suggests this, page 5, lines 22-32)

Regarding claim 8, Marron meets the limitation - The communications system as claimed in claim 6, the response transmitter including code data, which is transmitted collectively in response to the communications interrogation signal. (page 4, lines 24-58 [the communication between the marker and the base being one frequency range and the trigger for the marker being the second frequency range])

Regarding claim 9, Marron meets the limitation - The communications system as claimed in claim 8, the communications system being a component of an anti-theft system of a motor vehicle, the base station being in a motor vehicle and the response transmitter being carried by a person. (Marron suggests this, page 5, lines 10-21)

Regarding claim 10, Marron meets the limitation - The method as claimed in claim 4, the response transmitter being activated using the location interrogation signal. (page 4, lines 24-58 [the communication between the marker and the base being one frequency range and the trigger for the marker being the second frequency range])

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Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication from the examiner should be addressed to Alan Gantt at telephone number (703) 305-0077. The examiner can normally be reached between 9:30 AM and 6 PM within the Eastern Time Zone. The group FAX number is (703) 872-9306.

Any inquiry of a general nature or relating to this application should be directed to the group receptionist at telephone number (703) 305-4700.

Alan T. Gantt

Alan T. Gantt

January 6, 2005

Nick Corsaro
NICK CORSARO
PRIMARY EXAMINER